IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 16809 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA ***Sd/-***

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ? **1 to 5 NO**

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VINODKUMAR SHANTILAL SHAH - Petitioner(s)
Versus
DEPUTY COLLECTOR STAMP DUTY VALUATION DEPTT., & 2 - Respondent(s)

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Appearance :
MR SL VAISHYA for Petitioner(s) : 1,
MS NISHA PARIKH ASSTT GOVERNMENT PLEADER for Respondent(s) : 1,
NOTICE NOT RECD BACK for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 2,
None for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 10/08/2007

ORAL JUDGMENT :

1. The petitioner has challenged the order dated 21.1.2006 of Deputy Collector, Stamp Duty

Valuation Organization, Palanpur, whereby application of the petitioner for reference under the provisions of section 32-B of the Bombay Stamp Act, 1958 (for short, "the Act") was rejected only on the ground of delay. It was submitted by learned counsel Mr.Vaishya and conceded by learned A.G.P. on behalf of the respondents that, after the original order dated 18.6.2002 determining the market value of the property in question and the stamp duty due under the provisions of section 32-A of the Act, the petitioner had deposited on 17.8.2002 the requisite amount for referring the case of the petitioner to the Chief Controlling Revenue Authority and the petitioner had also made an application for that purpose. However, the application of the petitioner was rejected by the impugned order, as aforesaid, without reference to the deposit made and without affording to the petitioner any opportunity of being heard.

2. Therefore, upon a fair statement and concession being made on behalf of the respondents, petition is allowed and the impugned order dated 21.1.2006 is set aside with the direction that the Collector concerned shall draw up a statement of case of the petitioner and refer it to the Chief Controlling Revenue Authority along with application of the

petitioner, as expeditiously as practicable, and the Authority shall consider the case and decide it in accordance with law after affording to the petitioner an opportunity of being heard. Rule is made absolute with no order as to cost. Direct service is permitted.

Sd/-
(D.H.Waghela, J.)

(KMG Thilake)